Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
ERIC A. VANDERWERFF DC

Respondent Name
TWIN CITY FIRE INSURANCE CO

MFDR Tracking Number
M4-15-0070-01

Carrier's Austin Representative
Box Number 47

MFDR Date Received
SEPTEMBER 8, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "we are entitled to payment for our services rendered to this patient…these outstanding services rendered, as listed above, are pre-authorized (approved letters enclosed). The carrier has failed to document any kind of MUTUAL agreement in the Physical Therapy pre-authorization letters which is in gross violation of Rule § 134.600 (n)…The reason the carrier did not document the so called 'mutual agreement' is because the carrier knows for a fact that their URA never contacted Millennium Chiropractic to discuss any kind of condition or change to the pre-authorization request. THIS IS SUPER SUPER FRAUDULENT AND THE CARRIERS THAT BREAK THE LAW ROUTINELY IN THIS MANNER (LIKE HARTFORD) SHOULD BE SHUT DOWN!!"

Amount in Dispute: $1,935.53

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Our investigation has found that reimbursement was made in accordance Texas fee schedule and Medicare guidelines."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 25, 2013 December 5, 2013 December 9, 2013 December 16, 2013	CPT Code 97140-59-GP Manual therapy techniques (eg, mobilization/ manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes	$42.50/ per date	$470.99
December 19, 2013 December 23, 2013 January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014		$47.00/ per date	
January 22, 2014 January 23, 2014 January 27, 2014		$49.20/ per date	

January 30, 2014 February 3, 2014 February 10, 2014			
November 25, 2013 December 5, 2013 December 9, 2013 December 16, 2013	CPT Code 97110-GP (X4) Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility	$29.36/each date	$5.25
December 2, 2013		$139.48	
December 19, 2013 January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014		$42.00/each date	
January 22, 2014 January 27, 2014 January 30, 2014 February 3, 2014 February 10, 2014		$58.05/each date	
December 2, 2013	CPT Code 97112-59-GP Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities	$47.56	$0.00
January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014 January 23, 2014	CPT Code 97116-59-GP Therapeutic procedure, 1 or more areas, each 15 minutes; gait training (includes stair climbing)	$40.48/each date	$34.07
January 30, 2014 February 3, 2014 February 10, 2014		$46.40/each date	
TOTAL		$1,935.53	$510.31

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.308 sets out the procedures for resolving medical necessity disputes.
3. 28 Texas Administrative Code §134.600, effective July 1, 2012, requires preauthorization for physical therapy services.
4. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 119-Benefit maximum for this time period or occurrence has been reached.
   - 168-Billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services.
   - 86-Service performed was distinct or independent from other services performed on the same day.
   - 97-Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
   - 906-In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive medicine, evaluation and management services procedure (90000-99999) has been disallowed.
   - 247-A payment or denial has already been recommended for this service.

- B13-Preivously paid. Payment for this claim/service may have been provided in previous payment.

Issues

1. Does a preauthorization issue exist in this dispute?
2. Is the requestor entitled to reimbursement?

Findings

1. According to the explanation of benefits, the respondent reduced payment for the disputed services, CPT codes 97140-59-GP, 97110-GP, 97116-59-GP based upon reason codes "119" and "168". The respondent contends that reimbursement is not due because "Our investigation has found that reimbursement was made in accordance Texas fee schedule and Medicare guidelines."

   28 Texas Administrative Code §134.203(a)(7) states "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. Independent Review Organization (IRO) decisions regarding medical necessity made in accordance with Labor Code §413.031 and §133.308 of this title (relating to MDR by Independent Review Organizations), which are made on a case-by-case basis, take precedence in that case only, over any Division rules and Medicare payment policies." In this case, the timeframe and number of physical therapy services allowed is addressed in 28 Texas Administrative Code §134.600(p).

   28 Texas Administrative Code §134.600(p) states "Non-emergency health care requiring preauthorization includes: (5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to: (i) Modalities, both supervised and constant attendance; (ii) Therapeutic procedures, excluding work hardening and work conditioning."

   A review of the submitted preauthorization reports finds the following:

Date of Report	Service Requested	Service Approved	Start Date	End Date
December 11, 2013	Chiro/PT 6 sessions right hip	Maximum of 4 modalities per visit 98943, 97140, 97110, 97112, 97116, G0283	December 11, 2013	February 11, 2014
January 8, 2014	PT with modalities X 6 right hip	Maximum of 4 modalities per visit 98943, 97140, 97110, 97112, 97116, G0283	January 8, 2014	March 8, 2014

The Division concludes based upon the preauthorization reports submitted that the respondent gave preauthorization approval for twelve sessions of physical therapy, not to exceed four modalities, beginning on December 11, 2013 and ending March 8, 2014.

A review of the submitted medical billing and reports finds the requestor provided the following physical therapy services:

Date of Service	Treatment Billed	Rationale
November 25, 2013 December 2, 2013 December 5, 2013 December 9, 2013 December 16, 2013 December 19, 2013 December 23, 2013 January 2, 2014	98941, G0283-GP, 97140-59-GP, 97110-GP (X4), 97112-59-GP	Based upon the submitted preauthorization reports, a preauthorization issue exists for dates of service November 25, 2013 through December 9, 2013. As a result, reimbursement is not recommended. The requestor did not exceed the four preauthorized modalities for dates of service December 16, 2013 through January 2, 2014. As a result, reimbursement is recommended.

January 13, 2014 January 20, 2014 January 30, 2014 February 3, 2014 February 10, 2014	98941, G0283-GP, 97140-59-GP, 97110-GP (X4), 97112-59-GP, 97116-59-GP	The requestor did exceed the four preauthorized modalities for these five dates of service between January 13, 2014 and February 10, 2014. A review of the explanation of benefits finds that the respondent paid for three modalities; therefore, reimbursement for the fourth modality is recommended.
January 23, 2014	98941, G0283-GP, 97140-59-GP, 97110-GP (X4), 97116-59-GP	The requestor did not exceed the four preauthorized modalities for date of service January 23, 2014. As a result, reimbursement is recommended for both codes 97140-59-GP and 97116-59-GP.

2. 28 Texas Administrative Code §134.203(a)(5), states "'Medicare payment policies' when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

   Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

   On the disputed dates of service, the requestor billed CPT codes 98943, G0283-GP, 97140-59-GP and 97110(X4). CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 which states in part "Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." The multiple procedure rule discounting applies to the disputed service.

   To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

   Review of Box 32 on the CMS-1500 the services were rendered in zip code 75061, which is located in Irving, Texas; therefore, the Medicare participating amount is based on locality "Dallas, Texas".

   The 2013 DWC conversion factor for this service is 55.3.

   The 2013 Medicare Conversion Factor is 34.023.

   The 2014 DWC conversion factor for this service is 52.83.

   The 2014 Medicare Conversion Factor is 35.8228

Using the above formula and multiple procedure rule discounting policy, the Division finds the following:

Dates of Service	Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Amount Due
December 16, 2013 December 19, 2013 December 23, 2013	97140	$30.27	$36.83 X3 = $110.49	$0.00	$110.49
January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014 January 22, 2014 January 23, 2014 January 27, 2014 January 30, 2014 February 3, 2014 February 10, 2014	97140	$30.42	$36.05 X 10 = $360.50	$0.00	$360.50
TOTAL					$470.99

Dates of Service	Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Amount Due
December 16, 2013 December 19, 2013 December 23, 2013	97110 (X4)	$32.34/15 min	$156.28 X 3 = $468.84	$157.68 X 3 = $473.04	$0.00
January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014	97110 (X4)	$32.60/15 min	$153.24 X 4 = $612.96	$157.68 X 4 = $630.72	$0.00
January 22, 2014 January 27, 2014 January 30, 2014 February 3, 2014 February 10, 2014	97110 (X4)	$32.60/15 min	$153.24 X 5= $766.20	$152.19 X = $760.95	$5.25
TOTAL					$5.25

Dates of Service	Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Amount Due
January 2, 2014 January 6, 2014 January 13, 2014 January 20, 2014 January 23, 2014 January 30, 2014 February 3, 2014 February 10, 2014	97116	$28.97	$34.07 for January 23, 2014. All other dates denied because exceeded preauthorization as explained in number 1 above.	$0.00	$34.07

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $510.31.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $510.31 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		08/13/2015
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.